

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff

DECISION and ORDER

-VS-

10-CR-6226

DOMENICO LONARDO

Defendant

This case was referred by order of the undersigned, entered November 15, 2010, ECF No. 20, to Magistrate Judge Jonathan W. Feldman, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On May 25, 2011, Defendant filed an omnibus motion, ECF No. 27, seeking *inter alia* suppression of evidence discovered pursuant to two search warrants (the first of which was a Forward Looking Infrared Equipment ["FLIR"] search warrant) from 199 Walker Road, Hilton, New York. In that regard, an evidentiary hearing was held on August 25, 2011, ECF No. 34, subsequent to which, on December 27, 2011, Defendant filed a supplemental brief, ECF No. 38. On June 27, 2012, Magistrate Judge Feldman filed a Report and Recommendation ("R&R"), ECF No. 49, recommending that the defendant's motion to suppress the FLIR search warrant be denied" and recommending that "Lonardo's motion to suppress the search of 199 Walker Road in Hilton, New York should be denied." R & R, p. 11 and p. 14. Defendant timely filed objections to the R & R on July 24, 2012, ECF No. 51, arguing that "the Court reject the Magistrate Judge's R & R and suppress the tangible evidence on the ground that the Search Warrant Applications were so lacking in *indicia* of reliability and entirely unreasonable, thereby barring application of the good faith exception to the exclusionary rule. The issuing Judge relied on false and misleading statements of

the police officer in the Search Warrant Application.” Objections to Magistrate Judge’s Report and Recommendation of June 27, 2012, p.1.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R & R to which objections have been made. Upon a *de novo* review of the R & R, including a review of the search warrants and applications at issue, as well as the transcript of the evidentiary held and exhibits received, Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Feldman’s R & R, ECF No. 49, defendant’s applications, ECF No. 27, to suppress evidence relating to the two search warrants for 199 Walker Road in Hilton are denied.

IT IS SO ORDERED.

Dated: Rochester, New York
August 24, 2012

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge